

## **REMARKS/ARGUMENTS**

Claims 1, 3-4, 6 and 8-9 are pending in the instant application. At the outset, Applicant gratefully acknowledges the courtesy of Examiner T. Nguyen in granting Applicant's representative a telephone interview, held Tuesday 23 October, 2007. A summary of that interview is filed herewith.

### **Rejections under 35 U.S.C. §102**

Claims 1, 4, 6 and 9 are rejected under 35 U.S.C. § 102(b) as anticipated by U.S. Patent No. 5,357,755 to Gillingham, et al. ("Gillingham"). Applicant respectfully traverses the rejection.

Independent claim 1 recites a method for regenerating the filter in an exhaust system of a combustion engine, including either leading the exhaust gasses through a filter or bypassing past the filter through a space inside the silencer that surrounds the filter, and passing the exhaust gasses through a catalyst including during bypassing of the filter. Independent claim 6 recites an apparatus containing a filter, and a bypass duct selectively leading exhaust gasses through a space inside a silencer and surrounding the filter, further including a catalyst and a device operable for causing the exhaust gasses to pass through the catalyst during a bypassing of the filter.

The Office Action applies Gillingham to these independent claims, alleging that all features are anticipated by the reference. Applicant respectfully disagrees. In contrast to the recited claims, Gillingham does not teach or suggest both a catalyst and a silencer. The embodiment of Gillingham relied upon in the Office Action, Figs. 12-13, includes two trap, i.e., filter, devices 254, 256. There is no teaching or suggestion in Gillingham that one or the other filter is or contains a catalyst, nor is there any teaching or suggestion that the exhaust gasses are passed through the catalyst including during a bypassing of the filter. Rather, in the dual embodiment of Gillingham, exhaust gasses are passed through one or the other filter, while the opposite filter is subjected to reverse flow regeneration (generally, Col. 12, line 48- Col. 14, line 18).

Moreover, both independent claims 1 and 6 recite method and apparatus, respectively, to the effect that the during bypassing of the filter, the exhaust gasses are led through a space that surrounds the filter. In contrast to this claimed feature, Gillingham discloses that bypass gasses

are led through a tube (260) through the center of the trap (256), and not through any space surrounding the trap. Therefore, claims 1 and 6 will be seen as further distinguished from the applied reference.

Claims 4 and 9 each depend from independent claims 1 and 6, respectively. These dependent claims are each separately patentable, but are offered as patentable for at least the same reasons as their underlying independent base claims, the features of which are incorporated by reference. "Anticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, arranged as in the claim." *Lindemann Maschinenfabrik GMBH v. American Hoist and Derrick Company et al.*, 730 F.2d 1452, 221 USPQ 481 (Fed. Cir., 1984). In light of the foregoing, and the agreement reached in the aforementioned telephone interview, Applicant respectfully submits that the rejection has been obviated, and kindly requests favorable reconsideration and withdrawal.

#### **Rejections under 35 U.S.C. §103**

Claims 3 and 8 are rejected under 35 U.S.C. § 103(a) as obvious over Gillingham as applied to claims 1 and 6, in view of U.S. Patent No. 6,918,463 to Takahashi, *et al.* ("Takahashi"). Applicant respectfully traverses the rejection.

Takahashi is offered for its teaching of a holding-back spring on a valve to selectively lead the exhaust gas to bypass the filter. However, Takahashi does not, nor is it alleged to, ameliorate the deficiencies of Gillingham with respect to underlying independent base claims 1 and 6. To establish prima facie obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974).

Therefore, Applicant respectfully submits that claims 3 and 8 are patentably distinguished over Gillingham and Takahashi, taken singly or in combination. Favorable reconsideration and withdrawal of the rejection is kindly requested.

**Conclusion**

In light of the foregoing, Applicant respectfully submits that all claims are patentable, and kindly solicits and early and favorable Notice of Allowability.

THIS CORRESPONDENCE IS BEING  
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